

City Council
Agenda Memo



TO: Larry D. Gilley, City Manager

City Council
Meeting Date: 05/13/2010

FROM: Mike Hall, Director of Community Services

A handwritten signature in black ink, appearing to be "MH", written over the name "Mike Hall".

SUBJECT: Consideration of Amendment to Municipal Code Chapter 22, Section 22-2

GENERAL INFORMATION

On January 14, 2010 City Council considered an amendment to the Code of Municipal Ordinances, Chapter 22, Parks and Recreation, Section 22-2(a) that would have allowed the sale of beer and wine only under special conditions at the Abilene Zoological Gardens, Festival Gardens and in Nelson Park at the softball fields with a permit from the Parks and Recreation Board as part of fundraising events. After a public hearing City Council tabled that item for future consideration.

SPECIAL CONSIDERATIONS

The item previously considered by City Council has been revisited by a subcommittee of the Parks and Recreation Board who has recommended certain amendments to the original request which have subsequently been recommended by the Parks and Recreation Board for City Council consideration. The amendments recommended by the Board limit this use to the Abilene Zoological Gardens within the perimeter fence or Education Building only. The amendments further limit this use to an invitation-only fund raising event during non-public hours. An approved permit from the Parks and Recreation Board is required in addition to those stipulations and the rules for granting such permits have been made a part of the recommended ordinance. The conditions for a permit include written request, use of licensed caterers, security personnel must be provided, hours are limited to non-public hours and in no event between 12:01 a.m. and 5:30 a.m., insurance approved by the Legal and Risk Management Departments, conformity with all other applicable municipal codes and ordinances, and conformity with any other conditions the Parks and Recreation Board deems prudent and appropriate. The proposed ordinance provides further that the Board may deny any permit for this activity if in its judgment the activity is inappropriate to the Zoo setting or may conflict with other events in the park.

FUNDING/FISCAL IMPACT

NA

STAFF RECOMMENDATION

Staff recommends approval of the ordinance as recommended by the Parks and Recreation Board

BOARD OR COMMISSION RECOMMENDATION

The Parks and Recreation Board recommended approval of the proposed amendments to the Code of Municipal Ordinances, Chapter 22, Section 22-2. The vote was 5 for and 1 opposed.

ATTACHMENTS

Proposed ordinance

Prepared by:

Name: Mike Hall

Title: Director of Community Services

Item No. 7.1

Disposition by City Council

- Approved Ord/Res# _____
- Denied _____
- Other _____

City Secretary

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 22 SECTION 22-2 OF THE CODE OF THE CITY OF ABILENE BY AMENDING THE SECTION AS SET OUT BELOW, PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND CALLING FOR A PUBLIC HEARING.

WHEREAS, Chapter 22 Section 22-2(a) of the Abilene Code of Ordinances prohibits the possession of alcohol within any city park, and

WHEREAS, the Parks and Recreation Advisory Board recommends that the ordinance be amended to allow alcohol pursuant to a permit process for non-profit fundraising events at the Zoo,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS

- PART 1:** That Chapter 22, Section 22-2 of the Code of Ordinances, City of Abilene, Texas, is hereby replaced as set out in Exhibit A, attached and made a part of this ordinance for all purposes.
- PART 2:** That if the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not effect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this ordinance.
- PART 3:** That any person, firm, or corporation violating the provisions of this Ordinance shall be deemed to have committed a misdemeanor, and upon conviction thereof shall be fined in accordance with Chapter 1 (Section 1-9) of this Code.
- PART 4:** Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON FIRST READING this 22nd day of April, 2010.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on 18th day of April, 2010, the same being more than 24 hours prior to a public hearing being held in the Council Chamber of City Hall in Abilene, Texas, at 8:30 a.m. on the 13th day of May, 2010, to permit the public to be heard. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON SECOND AND FINAL READING this 13th day of May, 2010.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:



CITY ATTORNEY

EXHIBIT A

Chapter 22, Section 22-2

Intoxicating beverages prohibited, confiscation; Zoo permit.

DELETE

(a) No person shall bring or carry or have in his possession within any public park in the city any intoxicating beverage.

(b) If any officer of the city or of the state sees any person violating the terms of this section, he shall immediately seize such intoxicating beverage and shall hold the same as evidence until the trial of the accused party, and shall thereafter dispose of such intoxicating beverage.

ADD

(a) No person shall bring or carry or have in his possession within any public park in the city any intoxicating beverage unless said person is in attendance at an invitation-only fund raising event at the Abilene Zoological Gardens within the perimeter fence or the Education Building only, during non-public hours, and the Parks and Recreation Board has approved a permit for the event.

(b) If any officer of the city or of the state sees any person violating the terms of subsection (a), he shall immediately seize such intoxicating beverage and shall hold the same as evidence until the trial of the accused party, and shall thereafter dispose of such intoxicating beverage.

(c) A permit for the sale of beer and wine only in accordance with subsection (a) may be granted by the Parks and Recreation Board if the following conditions are met:

1. Written notice of a request for permit to sell beer and wine only as part of a fund raising event shall be submitted by a non-profit organization not less than 90 days prior to the date that the event is to take place.
2. Organizations requesting said permit shall use the services of a caterer licensed by the Texas Alcoholic Beverage Commission to sell beer and wine subject to all applicable rules and requirements established by the Texas Alcoholic Beverage Commission.
3. Both the non-profit organization and the licensed caterer must insure that no beer or wine sold under the terms of the permit will be allowed outside the permitted area.
4. Security must be provided throughout the hours during which beer and wine may be sold. At a minimum, there must be at least one security person on site per 100 occupants in addition to the caterer's personnel. The Parks and Recreation Board may require additional security as a condition of permit issuance.

5. Hours of operation are limited to non-public Zoo hours and in no event shall the sale of beer and wine occur between the hours of 12:01 a.m. and 5:30 a.m.. Further hourly restrictions as imposed by the Texas Alcoholic Beverage Commission must be observed, should they be more restrictive.
6. The applicant must agree to provide the types and terms of insurance as required by the City of Abilene's Legal and Risk Management Departments for the size and type of event being conducted. The required insurance shall name the City as additional insured and must be primary insurance and not contributing with any other insurance available to City, under any third party liability policy.
7. The applicant must agree to abide by all applicable municipal codes and ordinances pertaining to the sale of alcohol including zoning, food service establishment, building or other codes. A permit from the Parks and Recreation Board for the purposes herein does not take the place of any other permits required under any other municipal code or ordinance, and the applicant must agree to secure the same prior to the event.
8. The Parks and Recreation Board may impose other conditions which it deems appropriate or prudent as it pertains to the sale of beer and wine at the Zoo.
9. Parks and Recreation Board may deny any permit for this activity if in its judgment the activity is inappropriate to the Zoo setting or may conflict with other events in the park.
10. The decision of the Parks and Recreation Board shall be final.

City Council
Agenda Memo



City Council
Meeting Date: 5/13/2010

TO: Larry D. Gilley, City Manager
FROM: Jon James, AICP
Director of Planning and Development Services
SUBJECT: Final reading and public hearing on an Ordinance to amend regulations pertaining to
"Liquor Store On-Premise Consumption" in the AO Zoning District.

GENERAL INFORMATION

Last year, the Taylor County Expo Center board voted unanimously to allow beer sales at a limited number of publicly ticketed events. However, upon review of the City's regulations, it was determined that the existing zoning for the expo center did not allow for the sale of alcohol.

The zoning on the Taylor County Expo Center property is AO (Agricultural Open Space). The use, "liquor store on-premise consumption", is not a permitted use within the AO zoning district.

Staff proposed an amendment to Section 23-306 in the Zoning Ordinance to allow the use of "liquor store on-premise consumption" within the AO zoning district with the condition that the sale of alcohol be accessory to the following uses: Drag Strip or Commercial Racing; Fairgrounds; Motorcycle Track; Rodeo Grounds; and Stadium. The amendment was approved by City Council on December 18, 2008.

Recently, the Parks & Recreation Board recommended a change to the previously approved amendment regarding alcohol in AO zoning adding the following use to the list: zoo. The Municipal Golf Advisory Committee met after and recommended a change to include golf courses. The zoo use would be restricted to events with a permit approved by the Parks and Recreation Advisory Board.

The City Council adopted the Land Development Code (LDC) on April 22, 2010. The proposed amendment will revise the language in the new LDC.

STAFF RECOMMENDATION

Staff recommends approval of the proposed amendment.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommended approval of the amendment by a vote of five (5) in favor (Bixby, Glenn, Todd, Famble, and McClarty) to none (0) opposed.

ATTACHMENTS

Ordinance
Opposition Response Letter

Prepared by: Name: <u>Ben Bryner, AICP</u> Title: <u>Planning Services Manager</u> May 4, 2010	Item No. <u>7.2</u>	Disposition by City Council <input type="checkbox"/> Approved Ord/Res# <input type="checkbox"/> Denied _____ <input type="checkbox"/> Other _____ City Secretary
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AN ORDINANCE AMENDING CHAPTER 23, "LAND DEVELOPMENT CODE," "ZONING REGULATIONS" OF THE ABILENE MUNICIPAL CODE, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY AND CALLING A PUBLIC HEARING.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That Chapter 23, "Zoning Regulations," of the Abilene Municipal Code be amended as set out in Exhibit "A," attached hereto and made a part of this ordinance for all purposes.

PART 2: That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART 3: That any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PASSED ON FIRST READING this 22nd day of April A.D. 2010.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 18th day of April, 2010, the same being more than fifteen (15) days prior to a public hearing to be held in the Council Chamber of the City Hall in Abilene, Texas, at 8:30 a.m., on the 13th day of May, 2010, to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON SECOND AND FINAL READING THIS 13th day of May, A.D. 2010.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

Adrian Senter

CITY ATTORNEY

EXHIBIT "A"

AMEND Section 2.4.3.3 (a) (31) f: Conditions for Liquor Store On-Premise Consumption

CHANGE: Add number items 7 and 8

- 2.4.3.3 (a) (31) f f. A liquor store shall be allowed within the AO zoning district accessory to the following uses only:
- (1) Amusement Facility (Temporary);
 - (2) Drag Strip or Commercial Racing;
 - (3) Fairgrounds;
 - (4) Motorcycle Track;
 - (5) Rodeo Grounds;
 - (6) Stadium;
 - (7) Golf Course; and
 - (8) Zoo, limited to events permitted under City of Abilene Code of Ordinances Chapter 22, Section 22-2(a).

-END-

Monday, November 9, 2009

PLANNING
NOV 13 2009

Planning and Zoning Board,

We in the United States are a society in
sighted denial of the murderous effects of alcoholism
and alcohol abuse. There is an alcohol-related death
every 30 seconds in the United States. It is proven
that alcohol-related problems affect every aspect of
society - health, families, accidents of every kind.

I urgently request that you use your position of
trust and leadership to stop the attempt to allow alcohol
in our public parks, zoo, Festival gardens, fields - 4 and
golf course (Maxwell). They say "only for fundraisers"
but why even that? ^{Their} message - especially to our
young people - is much more important. It says -
"alcohol is necessary". All this while problems with
alcohol are being denied and hidden. The community
and families continue to suffer. And the denial
goes on and problems surrounding alcoholism
continue to rage and grow.

Please help us and stop this request for
more alcohol. I beg you.

Sincerely,
Mary Mattern-Pope

1518 scenic Way
Abilene TX 79602
325-677-5104